



Mining Industry Council of Missouri

P.O. Box 725 • 101 E. High - Suite 200 • Jefferson City, MO 65102 • (573) 635-7308

September 9, 2004

RECEIVED

SEP 10 2004

Mr. Larry Coen, Director
MO Department of Natural Resources
Land Reclamation Program
P.O. Box 176
Jefferson City, MO 65102-0176

MISSOURI LAND
RECLAMATION COMMISSION

RE: Proposed Rule 10 CSR 40-10.020
Permit Application Requirements

Dear Larry:

I appreciate the opportunity to submit the following comments on behalf of the Mining Industry Council of Missouri. MIC also appreciates the opportunity to work with staff and other interested parties in the work group process in developing the set of draft regulations that were preliminarily approved by the Commission for submission as proposed rules.

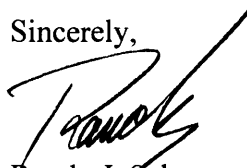
During informal discussions at the Commission meeting at which the Commission approved the draft rules for submission as proposed rules, we raised one concern regarding the required notice to adjacent landowners under 10 CSR 40-10.020 (2) (I) (1) (B). The proposed rule requires notice to be sent to the last known addresses of all record landowners of continuous real property or real property located adjacent to the property line of the property where the proposed mine plan area is located. We had previously raised the concern that this is inconsistent with the statutory requirement provided in Section 444.772.10 where the statute reads: "The operator shall also send notice of intent to operate a surface mine by certified mail to ... the last known addresses of all record landowners of continuous real property or real property located adjacent to the proposed mine plan area." The requirement under the proposed rule appears to, in many cases, dramatically increase the number of notices as well as go beyond the specific legislative intent. We would recommend that (B) be amended to delete from that subsection the words "property line of the property where the" and "is located" so

that the subsection is identical to the statutory language under 444.772, Subsection 10.

We would be glad to visit with the Commission or staff should there be any questions or comments.

I also respectfully request the opportunity to address the Commission at the Public Hearing on November 17, 2004.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy J. Scherr", with a long, sweeping horizontal line extending to the right.

Randy J. Scherr
Executive Director

RJS:rmw

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October 1, 2004

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MISSOURI LAND
RECLAMATION COMMISSION

Mr. Larry Coen, Director
Land Reclamation Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Re: Division 40 – Land Reclamation Commission Chapter 10 – Permit and
Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand
and Gravel Operations – 10 CSR 40-10.020 Permit Application Requirements

Dear Mr. Coen:

Our law firm is counsel for the Missouri Limestone Producers Association and we are offering our comments to the following proposed regulations published in the Missouri Register on September 1, 2004.

1. 10 CSR 40-10.020 (2) (E) 2.A.
2. 10 CSR 40-10.020 (2) (I) 1.B.

Those regulations separately require an applicant to list in the application and send notice to all record landowners of real property contiguous or adjacent to the property line of the property where the proposed mine plan area is located.

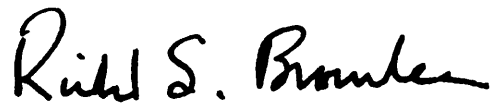
The controlling statutes is contained in Section 444.772 VAMS, and that section states that personal notice shall be sent to the last known addresses of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan area.

Mr. Larry Coen
October 1, 2004
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Obviously, the proposed regulation requires notice that is beyond that required by the Missouri Statute and is therefore illegal. The regulation should exactly mirror the statute.

Very truly yours,

HENDREN AND ANDRAE, LLC

A handwritten signature in black ink, reading "Richard S. Brownlee III". The signature is written in a cursive, flowing style with a large initial 'R'.

Richard S. Brownlee III

RSB:sa

Cc: Steve Rudloff